

# SU DECLARATION

## EXHIBIT 1

**Jean Su**

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**From:** Thorp, Galen (CIV) <Galen.Thorp@usdoj.gov>  
**Sent:** Friday, August 2, 2019 12:40 AM  
**To:** Jean Su  
**Cc:** Warden, Andrew (CIV)  
**Subject:** RE: 1:19-cv-02085 KBJ - CBD v. McAleenan

Jean,

You have inquired about the status of construction for two areas encompassed by DHS's May 15, 2019 published waiver determination regarding projects in Arizona: (1) the portions of Tucson Projects 1 & 2 that adjoin the Organ Pipe Cactus National Monument (OPCNM), and (2) the less than ½ mile portion of Tucson Project 3 near the San Pedro Riparian National Conservation Area (SPRNCA). See Enriquez Decl. (June 19, 2019), ECF No. 181-7, *Sierra Club v. Trump*, No. 4:19-cv-892 (N.D. Cal.).

After the Supreme Court lifted the injunction for projects funded pursuant to 10 U.S.C. 284, the U.S. Army Corps of Engineers is proceeding forward with construction. Construction-related activities are expected to start in relevant portions of Tucson Projects 1 & 2 during the week of August 12, with such activities as site grading for the project trailers and delivery of panels. Removal and replacement of existing barriers is set to begin around August 21.

Tucson Project 3 will begin with geotechnical surveys during the week of August 12. Defendants are willing to hold off on geotechnical surveys within the San Pedro River basin (which will be minimally invasive regardless) for several weeks if that would assist the parties in negotiating a non-PI briefing schedule.

I am out of the office on Friday, but should be available to discuss this matter further.

Sincerely,  
Galen

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**Galen Thorp** | Senior Counsel  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
(202) 514-4781 | [Galen.Thorp@usdoj.gov](mailto:Galen.Thorp@usdoj.gov)

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**From:** Jean Su <[JSu@biologicaldiversity.org](mailto:JSu@biologicaldiversity.org)>  
**Sent:** Wednesday, July 31, 2019 3:55 PM  
**To:** Thorp, Galen (CIV) <[GThorp@civ.usdoj.gov](mailto:GThorp@civ.usdoj.gov)>  
**Subject:** 1:19-cv-02085 KBJ - CBD v. McAleenan

Hi Galen,

Hope you are well.

I just called and left you a voicemail. I'd like to discuss the recent case we filed challenging the May 2019 IIRIRA waivers. Please call me back today if possible—I'm reachable at the 415 number below.

Thanks,  
Jean

**Jean Su**

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**From:** Thorp, Galen (CIV) <Galen.Thorp@usdoj.gov>  
**Sent:** Monday, August 5, 2019 10:03 AM  
**To:** Jean Su  
**Cc:** Warden, Andrew (CIV); Brian Segee; Brendan Cummings; Howard Crystal  
**Subject:** RE: 1:19-cv-02085 KBJ - CBD v. McAleenan

Jean,

It is on the same schedule as the Organ Pipe Cactus National Monument.

Sincerely,  
Galen

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**From:** Jean Su <JSu@biologicaldiversity.org>  
**Sent:** Sunday, August 04, 2019 4:19 PM  
**To:** Thorp, Galen (CIV) <GThorp@civ.usdoj.gov>  
**Cc:** Warden, Andrew (CIV) <AWarden@CIV.USDOJ.GOV>; Brian Segee <BSegee@biologicaldiversity.org>; Brendan Cummings <BCummings@biologicaldiversity.org>; Howard Crystal <HCrystal@biologicaldiversity.org>  
**Subject:** RE: 1:19-cv-02085 KBJ - CBD v. McAleenan

Galen,

Can you please also confirm the anticipated construction schedule for the Cabeza Prieta National Wildlife Refuge?

Regards,  
Jean

**Jean Su**  
*Energy Director, Climate Law Institute // Staff Attorney*  
**CENTER FOR BIOLOGICAL DIVERSITY**  
1411 K STREET NW, SUITE 1300  
WASHINGTON, D.C. 20005  
*Phone: (202) 849-8399*  
*Twitter: @ajeansu*  
<http://www.biologicaldiversity.org>

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**From:** Thorp, Galen (CIV) [<mailto:Galen.Thorp@usdoj.gov>]  
**Sent:** Friday, August 2, 2019 11:22 PM  
**To:** Jean Su  
**Cc:** Warden, Andrew (CIV); Brian Segee; Brendan Cummings; Howard Crystal  
**Subject:** RE: 1:19-cv-02085 KBJ - CBD v. McAleenan

Jean,

Your legal arguments against DHS's waiver authority have been consistently unsuccessful. The border infrastructure at issue here serves important purposes, and my clients are not willing to stipulate to defer construction until the indefinite point at which the court rules on your latest claims. Given the preconditions you have set for an alternative briefing schedule, it appears that we will need to proceed under DDC Local Rule 65.1(c). I hope, nevertheless, that we can